

Conroy, Randy (DEQ)

From: Casey, Steve (DEQ)
Sent: Monday, January 28, 2013 8:08 AM
To: Harrington, Steve (DEQ); Kline, David (DEQ)
Cc: Wagner, Robert (DEQ); Schrantz, Phil (DEQ); Clark, Clif (DEQ); Walczak, Joe (DEQ); Fitch, Hal (DEQ); Maki, Joe (DEQ); Pennala, Virginia (DEQ); Conroy, Randy (DEQ)
Subject: RE: DELIBERATIVE - Humboldt Mill brownfield redevelopment site in U.P.

Something to keep in mind is that the discharge from the pit met water quality standards, despite the deposit of sulfide tailings from the Ropes Gold Mine. WRD staff conducted ecological assessments of the receiving waters and found no problems, even before the discharge came into compliance with water quality standards. So the presence of the Ropes Tailings was not causing a problem from our perspective.

From: Harrington, Steve (DEQ)
Sent: Tuesday, January 22, 2013 1:44 PM
To: Kline, David (DEQ)
Cc: Sygo, Jim (DEQ); Couture, Anne (DEQ); Wagner, Robert (DEQ); Schrantz, Phil (DEQ); Clark, Clif (DEQ); Walczak, Joe (DEQ); Fitch, Hal (DEQ); Maki, Joe (DEQ); Casey, Steve (DEQ)
Subject: RE: DELIBERATIVE - Humboldt Mill brownfield redevelopment site in U.P.

Thanks Dave! This is some very helpful information and I really appreciate these insights.

I find it interesting that EPA plans to consult with the petitioner (Keweenaw Bay Indian Community) before finalizing the report on their findings thus far. It seems that would result in the tribe having influence and/or information on the direction this is heading well before the developer (Rio Tinto) and the various past and present property owners (CCI, Coeur d'Alene, O'Dovero Properties, et al.) become aware of the potential outcome.

It does not appear there is much more DEQ can do until EPA consults with the tribe and issues their final report/recommendations. But, I suspect that if EPA designates this site as having a Hazard Ranking System (HRS) score of 28.5 or greater (qualifying it to be publically *proposed* for NPL inclusion) it will be predicated on the previously deposited sulfide tailings at the bottom of the flooded open pit mine onsite. Although the existing contaminant mass at the bottom of the pit is huge (potentially maxing out that portion of the HRS model) our agency has been moving forward with re-use permitting on the basis that the pit will be hydraulically isolated from the surrounding environment. Rio Tinto is currently constructing a multi-million \$ 'cut-off wall' along one side of the pit to ensure that surface flowage into nearby wetlands does not occur. This engineered enhancement is in part the basis of the DEQ issued permit to allow the pit to be used by Rio Tinto for the subaqueous disposal of tails from the Eagle Mine- which is to go into production next year. I can envision how EPA's direction in this entire matter (even simply delay) may have significant consequences with regard to bringing the mill site online to receive ore from the mine.

Again, I do appreciate that much of this is out of our hands for now and that our agency will have a chance to respond/comment at some point down the road. Thanks again for checking in to this and if you and/or Joe could keep us apprised as additional information comes to light that would be great.

Steve

Steve Harrington
 Upper Peninsula District Office

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From: Kline, David (DEQ)
Sent: Friday, January 18, 2013 3:52 PM
To: Harrington, Steve (DEQ)
Cc: Sygo, Jim (DEQ); Couture, Anne (DEQ); Wagner, Robert (DEQ); Schrantz, Phil (DEQ); Clark, Clif (DEQ); Walczak, Joe (DEQ)
Subject: RE: DELIBERATIVE - Humboldt Mill brownfield redevelopment site in U.P.

Hi Steve:

We will certainly have an opportunity to review and weigh in before the EPA finalizes anything. I spoke with Joan Tanaka and she indicated that the Site Inspection report has been drafted by the Region. Given the Tribal interests the Region sent it to EPA Headquarters for review. The Region now has the HQ comments and they are starting to review and incorporate them. Once the report is redrafted, the EPA intends on consulting with the Tribe before finalizing the SI report. Joan indicated that Tribal consultations can take quite a bit of time, so she was not sure when they would expect to have a final SI report.

Joan indicated earlier that the EPA plans on handling this like other sites in the Site Assessment process, by working with the state on the determinations related to the site. Once they get the report redrafted the DEQ will need to work with EPA on the recommendations for the site. I certainly don't expect the EPA is going to make any recommendations without our buy in. If a site does not score high enough, it can be designated as have no further response actions planned. If a site scores high enough for NPL consideration, it can potentially be deferred to the state program.

I think EPA is moving very carefully to make sure they have all the necessary data and things documented correctly given the Tribal interest. I am having Joe Walczak get with the EPA staff person to get a better idea of when we can expect to see the draft SI Report.

From: Harrington, Steve (DEQ)
Sent: Wednesday, January 16, 2013 2:40 PM
To: Kline, David (DEQ)
Cc: Sygo, Jim (DEQ); Couture, Anne (DEQ); Wagner, Robert (DEQ); Schrantz, Phil (DEQ); Clark, Clif (DEQ)
Subject: RE: DELIBERATIVE - Humboldt Mill brownfield redevelopment site in U.P.

Thanks Dave. I'm mostly just hoping that the Region V Superfund Branch will at least preview their determinations for this site with DEQ before they issue them publically. I would hope that they would be interested in, and value, our agency's perspectives/feedback even if it may run contrary to their eventual position. Thanks again for touching base with them!

I'm copying Bob, Anne and Jim on this because I believe they were contemplating some contact with upper management in Region V and just want them to be aware that you are inquiring through your channels.

Steve

From: Kline, David (DEQ)
Sent: Wednesday, January 16, 2013 1:27 PM

To: Harrington, Steve (DEQ)

Subject: RE: DELIBERATIVE - Humboldt Mill brownfield redevelopment site in U.P.

Hi Steve:

I don't know the current status. I have a call into EPA and they are going to get back to me. I will try and send a note out to everyone tomorrow.

From: Harrington, Steve (DEQ)

Sent: Friday, January 11, 2013 1:40 PM

To: Kline, David (DEQ)

Cc: Clark, Clif (DEQ); Couture, Anne (DEQ); Merrick, JoAnn (DEQ); Kligman, Karen (DEQ); Lawton, Patricia (DEQ)

Subject: DELIBERATIVE - Humboldt Mill brownfield redevelopment site in U.P.

Hi Dave,

Since our group discussion last October, I've had a few brief interactions with Kristen Mariuzza of Rio Tinto, and more recently with Allen Reilly of Horizon Environmental. Mr. Reilly contacted me this week to advise that his firm would soon be submitting a *Completion Report* for the environmental response activities prescribed and agreed to in our CNTS with Rio Tinto. I did receive this report today and, assuming it fulfills the requirements of the CNTS, expect it will be promoted as a milestone with regard to the cleanup/revitalization of this site by a non-labile party.

When I spoke with Mr. Reilly, he asked if I was aware of any site-specific inquiries or collaboration you or your staff may engaged in with EPA Region V Superfund Branch since Rio Tinto discussed their concerns about the protracted NPL screening process with us last October. I told him that I was not aware of any interactions which may have occurred, but that I would inquire with you as to the status of EPA's involvement here. So, I'm just wondering if there is any info you may be able to share with regard to where Region V is in the screening process, and if they anticipate completing whatever step of the process they are in by some certain date or time period.

Better knowledge of that timeframe would also be helpful to me with regards to the District's review of the Completion Report we now have. We have 120 days to complete our review of that but I am confident it can be done much sooner- potentially by mid-February. One of Mr. Reilly's concerns, which I tend to agree with, is that it may present a rather awkward situation if the EPA publically issued a draft or preliminary HRS score (without DEQ having the opportunity to review and comment on their SSI report) at about the same time DEQ determines that Rio Tinto has fulfilled their cleanup obligations pursuant to the CNTS.

Adding to this potential awkwardness, this site is one of several 'Major Cleanup Sites' being showcased by RRD (that Pat Lawton and JoAnn Merrick is working on) for the promotion of our programs to the Governor's Office and Legislators. I think it would be rather unfortunate if EPA were to issue a recommendation that the site be proposed for NPL inclusion while DEQ-RRD is trumpeting the cleanup and redevelopment work here as a major environmental and economic success story. Anything you or your staff might be able to do to ascertain where (and when) Region V is going with this issue would be extremely helpful.

Thanks for your attention to this situation. I'm still hopeful there's still some way to better align the goals of EPA and DEQ in these brownfield redevelopment matters, or at least enhance info flow between agencies.

I hope you have a great weekend and perhaps we can touch base on this next week some time.

Steve

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From: Allen Reilly [<mailto:ajreilly@horizonenv.com>]
Sent: Thursday, October 11, 2012 7:49 AM
To: Harrington, Steve (DEQ)
Subject: Re: FW: Availability for Meeting with Kennecott

Steve,

I developed the attached chronology as background for today's meeting.

Regards,

Allen

On 9/26/2012 11:22 AM, Allen Reilly wrote:

Anne,

Thanks. We are confirming a meeting with you and relevant project staff from 10:00AM to noon on Thursday, 10/11 in Constitution Hall.

It's great to have Scott and Dave involved, but we will definitely want Clif Clark, Steve Harrington, and Joe Walczak participating because they have been involved on the issue from the start.

Lastly, I view this as an "intake" briefing to get you up to speed on the issue should broader MDEQ involvement be required later, but it is possible that this will resolve on its own so I don't know that we are looking for any concrete action from the MDEQ at this point.

Thx

Allen

On 9/25/2012 5:26 PM, Couture, Anne (DEQ) wrote:

Yes that could work

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From: Allen Reilly [<mailto:ajreilly@horizonenv.com>]
Sent: Tuesday, September 25, 2012 3:17 PM

To: Couture, Anne (DEQ)
Cc: Cornelius, Scott (DEQ); Kline, David (DEQ); Clark, Clif (DEQ); Joseph, Susan (DEQ)
Subject: Re: FW: Availability for Meeting with Kennecott

Anne,

Thank you for your prompt response. Would 10:00 AM on 10/11 in Constitution Hall work for you and staff? Kennecott reps are trying to coordinate another meeting with AQD in Lansing.

Thx

Allen

On 9/24/2012 12:55 PM, Couture, Anne (DEQ) wrote:

Gentlemen:

I would like a verbal briefing on the Humboldt Mine and EPA status, as well as a meeting scheduled with Allen Reilly per his request, below. I will not be available on the 10th, but it looks like the 11th could work.

Please work together to coordinate.

Thanks, Anne

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From: Allen Reilly [<mailto:ajreilly@horizonenv.com>]
Sent: Monday, September 24, 2012 11:13 AM
To: Couture, Anne (DEQ)
Subject: Availability for Meeting with Kennecott

Anne,

With the recent flurry of activity on the Part 201 amendments, I almost forgot I have real clients with real problems!

I'd like to determine your availability for a meeting with Kennecott reps on 10/10 or 10/11 when they will be in Lansing for meetings with AQD, WRD, etc to discuss various aspects of the Eagle mine project in the UP. The purpose of the meeting would be to brief you on the US EPA's CERCLA PA/SI activities up at the Humboldt Mill site. The US EPA, in response to a request from the Keweenaw Bay Indian Club ("KBIC"), continues to evaluate the mill site for possible listing on the NPL, despite the fact that environmental conditions present on the property have been reviewed up, down, and sideways by the MDEQ during the course of development and execution of a CNTS (with Pat McKay) and issuance of numerous state operating permits (Parts 632, 31, air

permits, etc.).

The US EPA's Region 5 NPL coordinator indicates that they will likely issue a Draft SI report with a preliminary site score later this year. We think it would be productive to brief you on the current status of the project before the US EPA issues their report. I have attached a comment letter that we sent to the US EPA earlier this year outlining our concerns. As discussed in the letter, we believe that the US EPA's actions are inconsistent with Addendum I to the Superfund Memorandum of Understanding ("MOU") between MDEQ and U.S. EPA Region 5 (as well as Sections 105(h) and 128(b) of CERCLA) which establish the clear policy of avoiding federal CERCLA involvement in cases such as the mill site where the property is already being addressed under state authorities and where a non-labile party is committing substantial resources to improve the site under a state brownfield redevelopment program. We feel strongly that the US EPA is setting a bad precedent that undermines the MDEQ's brownfield program and discourages precisely the type of investment in the redevelopment of brownfield property that Kennecott has undertaken in this case.

I'd also like to have Steve Harrington and Cliff Clark participate (in person or via telecon) as they have been very helpful throughout this process.

Let me know if you would have availability on these days or, if not, what other times might work for you.

Regards,

Allen

--
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